

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Austen Yufenyuy

v.

Civil No. 22-cv-443-AJ

Warden, FCI Berlin

**O R D E R**

A hearing in this matter is scheduled for February 27, 2023 at 11:00 a.m. At that hearing, the Court will hear argument from the parties concerning:

- The time period during which the petitioner was eligible to earn First Step Act ("FSA") time credits ("FTCs"), and the reasons why any period of time after the petitioner was sentenced should be excluded from or included in that time period, particularly, the time period after the petitioner was sentenced and before the Bureau of Prisons ("BOP") designated him to a BOP facility to serve his sentence;
- For the period during which the petitioner was eligible to earn time credits, whether he was entitled to earn ten or fifteen days of FTCs for each thirty days of programming in which he actually or presumptively participated, and any reason for denying the petitioner fifteen days of time credits for each of thirty day period during which he was incarcerated pursuant to his federal sentence;
- The basis for any period of time the BOP claims the petitioner should not be able to earn and/or apply FSA time credits; and
- Whether the Court should require that the petitioner exhaust his administrative remedies prior to ruling on the merits of his petition, or whether the Court should find that one of the exceptions to the exhaustion requirement applies.

By Friday, February 24, 2023, the BOP is directed to provide counsel for the petitioner, and the Court, up-to-date documentation of: the petitioner's sentence calculation, FSA Time Credit assessments, risk assessments, or any other matter impacting the calculation of the petitioner's sentence. The parties are encouraged to confer prior to the hearing to determine whether there are any facts or calculations to which they can stipulate.

The Clerk's office is directed to issue an Order directing that the petitioner be transported to this court on February 27, 2023, no later than 10:00 a.m., for a hearing. To the extent the United States Marshals Service or the BOP requires an Attorney Special Request ("ASR") to make the petitioner available for transport in this case, counsel for the respondent is directed to provide an ASR as necessary.

SO ORDERED.



Andrea K. Johnstone  
United States Magistrate Judge

February 22, 2023

cc: Cathy J. Green, Esq.  
Seth R. Aframe, Esq.